Federal Aid to Roads and Highways Since the 18th Century: A Legislative History

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Summary

The federal government has provided aid for roads and highways since the establishment of the United States in 1789. This report comprises a brief history of such aid, detailing some precedent setters and more recent funding through the Highway Trust Fund, which was created in 1956.

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Early Road Construction[1]

From the earliest history of the United States, individuals and groups have been lobbying state legislatures and Congress for funds to construct or maintain roads. These Americans believed that roads would encourage both settlement of the country and the movement of goods.

President George Washington was an early advocate of road building in the new United States. As a young man, President Washington had surveyed routes for roads between Virginia and the confluence of the Allegheny, Monongahela, and Ohio Rivers (present-day Pittsburgh, PA), and as a major in the Virginia militia he was tasked with constructing a military road to this strategically important location. On a post-Revolutionary War trip to the West, he met Albert Gallatin, then a young surveyor, who would become a major voice for federal participation in the development of the infrastructure of the United States.

At the end of the 18th century, most roads in the United States were local roads that linked farms to nearby villages, which were often on waterways that were navigable for at least part of the year. Many of these roads were little more than broadened paths that were built and maintained locally, usually by citizens of a community who paid their taxes by working on the roads.

In 1796, Ebenezer Zane successfully petitioned Congress to grant him land (to be surveyed at his own expense) in exchange for building a road and providing ferries to cross the rivers between Wheeling, VA, through the Northwest Territory to the river port of Limestone (now Maysville), Kentucky Territory. Zane's "road" was a wide blazed trail called Zane's Trace, and was later widened and improved by the state of Ohio and became a part of the National Road.

As Secretary of the Treasury in the Jefferson Administration, Albert Gallatin advanced the proposal that states exempt federal land sales from taxation and apply a percentage of the proceeds for road building.[2] Congress adopted this proposal in the Ohio Statehood Enabling Act (2 Stat. 173). The act, signed in 1802, provided that 5% of the proceeds from the sale of public lands in Ohio was to be set aside for roads. In 1803, that act was amended (2 Stat. 225) to provide that 3% of these funds would be available for roads in the state, and 2% would be available for roads to and through Ohio. This form of federal assistance was later extended to all states that had public lands when they were granted statehood.

In March 1807, the Senate directed Secretary Gallatin to prepare a report on the roads and canals existing and proposed in the United States. Gallatin submitted the report to Congress on April 4, 1808. In the summary, Gallatin wrote,

> The early and efficient aid of the *Federal* [italics in original] Government is recommended by still more important considerations. The inconveniences, complaints, and perhaps dangers, which may result from a vast extent of territory, can no otherwise be radically

[1] A broad overview of highway and road construction, and a source of some material in this report, is U.S. Department of Transportation, Federal Highway Administration, *America's Highways, 1776-1976: A History of the Federal-Aid Program* (Washington: GPO, 1977), 560 p.

[2] Albert Gallatin, *Letter to Hon. Mr. Giles, Chairman of the Committee on the admission of the Northwestern Territory into the Union*, Washington, Feb. 13,1802, in Walter Lowrie and Matthew St. Clair Clarke, eds. *American State Papers*, Volume I, 7th Cong., 1st sess. (Washington: Gales & Seaton, 1833), pp. 327-328.

> removed or prevented than by opening speedy and easy communications through all its parts. Good roads and canals will shorten distances, facilitate commercial and personal intercourse, and unite, by a still more intimate community of interests, the most remote quarters of the United States. No other single operation, within the power of Government, can more effectually tend to strengthen and perpetuate that Union which secures external independence, domestic peace, and internal liberty.[3]

The report recommended an interconnected system of roads, canals, and river improvements be built at federal expense. The plan was opposed in Congress on constitutional, budgetary, and sectional benefit grounds, and was never implemented.[4]

On March 29, 1806, President Thomas Jefferson had signed the Cumberland Road Act (2 Stat. 357). The act directed the President, with the advice and consent of the Senate, to appoint three commissioners to lay out and build a road from the head of navigation on the Potomac River at Cumberland, MD, to a point on the Ohio River. Funding for the project would come from the Ohio 2% fund. The Cumberland Act required that permission be received from the legislatures of Maryland, Virginia, and Pennsylvania before construction could begin. After permission was granted, the road was constructed and named Cumberland Road. It was also known as The National Road.

In 1816, President James Madison proposed federal funding for a system of internal improvements (including roads) in the states, asking that the Constitution be amended to let the federal government finance and construct the projects. A bill to finance internal improvements with funds from a bonus payment from the Bank of the United States passed Congress in 1817. President Madison vetoed the legislation on the last day of his term (March 3, 1817) because the constitution had not been amended.[5]

Over the years after its construction, Cumberland Road deteriorated badly from heavy traffic and a lack of funds for maintenance. Because of the road's deterioration, Congress passed legislation in 1822, which authorized the federal government to collect tolls that would be used for maintenance. President James Monroe vetoed the legislation and stated in his veto message that the collection of tolls implied a power of sovereignty that was not granted to the federal government by the Constitution.[6] Congress provided funding for repairs to the road.

After the election of Andrew Jackson as President in 1828, there was a belief that he would look favorably upon internal improvements. Legislation was introduced to extend the existing Cumberland (National) Road. Jackson vetoed it on the grounds that internal improvements in the states were the affairs of the states. The only other perceived solution was state operation of Cumberland Road as a toll road. In 1831 and 1832, the legislatures of Maryland, Ohio, Pennsylvania, and Virginia agreed to accept and maintain their sections of Cumberland Road.

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[3] *American State Papers*, vol. I, 10th Cong., 1st sess., p. 725.

[4] Pamela L. Baker, "The Washington National Road Bill and the Struggle to Adopt a Federal System of Internal Improvement," *Journal of the Early Republic*, vol. 22, no. 3 (Autumn 2002,) p. 440; George Rogers Taylor, *The Transportation Revolution, 1815-1860* (Armonk, NY: M.E. Sharpe, Inc., 1977), pp. 17-22.

[5] *Annals of Congress*, 14th Cong., 2nd sess., 1059-1061.

[6] U.S. House of Representatives, *Message from the President of the United States With His Objections to the Bll for the Preservation and Repair of the Cumberland Road; Also, a Paper containing his Views on the subject of Internal Improvements* (Washington: Gales & Seaton, 1822), 60 p.

Jackson believed that as the federal government had complete authority over the territories of the United States, it could construct internal improvements in the territories without restriction. More federal funds were spent on internal improvement projects during the Jackson Administration than in all previous administrations combined—all of it in territories of the United States and the District of Columbia.[7]

Building Toll Roads Public and Private

In the absence of significant federal support for highways in the late 18th and early 19th centuries, and with state encouragement and, often, investment, private companies built toll roads in many states. The roads were often financially unsuccessful unless they connected city pairs or provided a farm-or-factory-to-market route with sufficient traffic to cover costs. In discussing the failures of these roads, Secretary Albert Gallatin wrote,

> It is sufficiently evident that, whenever the annual expense of transportation on a certain route, in its natural state, exceeds the interest on the capital employed in improving the communication, and the annual expense of transportation (exclusively of the tolls) by the improved route, the difference is an annual additional income to the nation. Nor does in that case the general result vary, although the tolls may not have been fixed at a rate sufficient to pay to the undertakers the interest on the capital laid out. They, indeed, when that happens, lose; but the community is nevertheless benefited by the undertaking.[8]

The boom in turnpike construction began in the late 1790s and lasted, with a roughly 10-year interruption in the 1830s, until the mid-19th century.[9] By 1830, more than 8,000 miles of roads had been built or converted to turnpikes under state charters of incorporation. Very few toll roads made consistent profits for their investors and the failure rate appears to have been high even in the early years predating rail and canal competition. Despite these financial difficulties, the toll roads were, without a doubt, the best roads in the country, and had a significant role in short- and medium-distance freight and passenger movement between the cities and larger towns. With the spread of the railway networks, however, the toll roads lost nearly all their passenger and most of their freight business to rail competition. As the longer turnpikes failed, shorter toll roads were chartered as feeder lines to rail service.

By 1900, most turnpike companies had gone out of business. State and local governments took over some of these roads in an orderly fashion and assumed the responsibility for maintenance of these routes. On a good number of roads, however, turnpike companies, in the face of financial failure, simply ceased operations and abandoned their roads. Because of the perceived chaos caused by what was seen as capricious abandonment of turnpikes, toll roads were often held in low regard. State turnpike legislation in the late 19th century generally included provisions for the dissolution of toll companies and the orderly transfer of responsibility to state or local governments.[10]

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[7] Pamela L. Baker, *The National Road and the Promise of Improvement, 1802-1850* (Chicago: Univ. of Illinois at Chicago, Ph.D. dissertation, 2003), p. 49.

[8] *American State Papers,* Volume I, p. 724.

[9] Joseph A. Durrenberger, *Turnpikes; A Study of the Toll Road Movement in the Middle Atlantic States and Maryland* (Cos Cob, CT.: J.E. Edwards, 1968), 188 p.

[10] Durrenberger, *Turnpikes; A Study of the Toll Road Movement in the Middle Atlantic States and Maryland*, 188 p.

The resistance to federal financial involvement in "internal improvements," such as roads, was based, in part, on constitutional concerns, discussed earlier, and also on budgetary constraints and state/regional rivalries.[11] The budget of the United States was dependent on tariff revenues and was quite small by modern standards, and some feared a major commitment to road construction could overwhelm the budget.[12] Sectional differences and state and regional rivalries also played a major role in the resistance to federal spending on roads because of concerns that federal road construction would benefit other states or regions more.

The Good Roads Movement

With the invention of the modern bicycle and pneumatic tires in the late 1880s, bicycles rapidly became very popular. The less than ideal road conditions of the time, however, made bicycling laborious and even dangerous. The growth of cyclist organizations led to the establishment in 1892 of the National League for Good Roads, whose purpose was to coordinate the Good Roads Movement and lobby governments at all levels to improve the condition of roads. It was reported that farmers, feeling that they should not be taxed so city dwellers could enjoy a bicycle ride in the country, were not at first a part of this movement. After road lobbyists began working with the Post Office while it was developing Rural Free Delivery, farmers began participating in the push for road improvements. The Good Roads Movement had a profound influence on the states' initiation of state aid for the creation of highway departments and commissions.[13]

On March 3, 1893, Benjamin Harrison, in one of his last acts as President, signed the 1894 Department of Agriculture Appropriations Act (27 Stat. 737). This act gave the Secretary of Agriculture $10,000 to research road construction and management. The appropriation was made to the Secretary of Agriculture because it was believed that many farmers were not able to transport their produce to railroad terminals or nearby towns in a timely fashion because of inadequate or otherwise poor quality roads. The Secretary created the Office of Road Inquiry (ORI) to conduct the research.

For several years after its inception, the duty of the ORI was to collect information and disseminate it through lectures, publications, and consultations, but a new program was added in 1896: short stretches of road would be built using contributed and borrowed labor and other resources. The only federal costs of this project were the salary and expenses of an ORI road expert who would design and supervise the work. The ORI was renamed the Office of Public Road Inquiries (OPRI) in 1899. Appropriations for roads increased in 1901 and continued to increase almost every year; by 1912 appropriations were over $160,000. In 1905, Congress created the Office of Public Roads (OPR) to "furnish expert advice on road building; to make investigations in regard to the best methods of road making, and the best kinds of road-making

[11] John Larson, *Internal Improvement: National Public Works and the Promise of Popular Government in the Early United States, 1783-1863* (Chapel Hill: University of North Carolina Press, 2001), 324 p.; Taylor, *The Transportation Revolution, 1815-1860*, pp. 15-22. See also: *America's Highways: 1776-1976: A History of the Federal-Aid Program*, pp. 16-27.

[12] U.S. Department of Commerce, Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1970* (Washington: GPO, 1975), p. 1106. Total federal revenues were $10.8 million in 1800, $24.8 million in 1830, and $56 million in 1860.

[13] U.S. DOT, FHWA, *America's Highways, 1776-1976: A History of the Federal-Aid Program*, p. 41; Philip P. Mason, *The League of American Wheelmen and the Good Roads Movement, 1880-1905* (University of Michigan: Ph.D. dissertation, 1957), 274 p.

materials in the several states; to investigate the chemical and physical character of road materials."[14] Congress had become concerned about the constitutionality of federal funds going to roads wholly within individual states, but groups such as the National League for Good Roads, the American Roads Builders, the American Highway Association, and the National Highway Association were determined to secure legislation to increase federal aid to roads. In conjunction with their efforts, more than 60 bills were introduced calling for federal aid to roads during the first six months of the second session of the 62nd Congress (December 1911-May 1912).

The Post Office Department Appropriations Act 1913 (P.L. 62-336, 37 Stat. 539) appropriated $500,000 to be expended by the Secretary of Agriculture, in conjunction with the Postmaster General, to aid in the improvement of rural-area post roads. The act stated that the funds would be available to state or local governments that agreed to pay two-thirds of the construction costs, but did not specify how the funds were to be distributed among the states. Ultimately, 13 states and 28 counties participated, and approximately 455 miles of road were built. Experience under this legislation led to OPR's decision that federal aid should go solely to the states, and not to the counties. The act also provided for the establishment of the Joint Committee on Federal Aid in the Construction of Post Roads to consider the problem of road maintenance. On November 25, 1914, the committee released a report entitled *Federal Aid to Good Roads*.[15] The report did not make specific recommendations, but did support the proposition that Congress should grant more federal funds to road construction.[16] The committee defended the constitutionality of its recommendation by saying that it would aid in establishing post roads, regulating commerce, providing for common defense, and promoting general welfare.[17]

State highway officials joined together in 1914 to form the American Association of State Highway Officials (AASHO) to provide assistance to the federal government on legislative, technical, and economic subjects relating to highways.

Following the beginning of World War I in July 1914, European powers began purchasing large quantities of supplies from the United States. As more and more goods were moved to ports in the United States and Canada for shipment, the nation's railroad system became overloaded. This increased demand for the rapid movement of goods and the existence of a network of roads led to the rapid development of the trucking industry. On April 6, 1916, the United States entered World War I and the amount of goods moving by truck expanded exponentially.

During 1914 and 1915, the nation's roads deteriorated rapidly under the increased use by heavy trucks. In response, AASHO members drafted a bill and submitted it to Congress. The bill was only four pages in length and called for increased federal financial assistance for highways. The Federal-Aid Highway Act of 1916 was signed into law by President Woodrow Wilson on July 11, 1916, as P.L. 64-156 (39 Stat 355). The act

[14] U.S. Congress, Committees on Appropriations of the Senate and House of Representatives, *Appropriations Made During the First Session of the Fifty-Ninth Congress* (Washington: GPO, 1906), p. 30.

[15] U.S. Congress, Joint Committee on Federal Aid in the Construction of Post Roads, *Federal Aid to Good Roads* (Washington: GPO, 1914), 204 p.

[16] Ibid., p. 13.

[17] Ibid., pp. 14-16.

- appropriated funds for the construction of rural post roads;
- stated that state participation in the program was permissible, but that any state that chose to participate must comply with the legislation's provisions;
- made it clear that the authority and responsibility of initiating projects was reserved to the states, and that federal participation was dependent upon approval by federal authority;
- stipulated that the state highway department or its equivalent would represent the state in its administration of the program;
- appropriated $10 million for the construction of roads and trails within national forests for FY1917-FY1926 at a rate of $1 million per year; and
- provided the basic policy for the development of main roads serving federally owned lands, reservations, or areas.

In 1918, the Office of Public Roads was renamed the Bureau of Public Roads (BPR) and specifically charged with administering federal funding of road construction.

The Federal-Aid Highway Act of 1921 (P.L. 67-87, 42 Stat. 212) divided highways into two categories: primary (interstate) and secondary (intercounty). It also gave limited federal aid to a system of highways to be designated by each state, not to exceed 7% of the state's total mileage. The act stated that each state would be responsible for maintaining the highways constructed with federal funds, and that failure to do so would result in the work being done under direct federal supervision with funds which would otherwise be available to that state for construction.

Congress saw highway and road building as a job stimulant when the economy soured in 1929 and responded by increasing funds for construction of more highways and roads. In April 1930, Congress voted to amend the Federal Aid Highway Act of 1916 and authorized and appropriated $50 million in addition to the $75 million already authorized and appropriated for FY1931. The act also provided $125 million for road construction in FY1932 and FY1933 (P.L. 71-90, 46 Stat. 141).

The Federal-Aid Highway Act of 1938 (P.L. 75-584, 52 Stat. 633) called for a study of the feasibility of a national network of superhighway toll roads. The resulting study, *Toll Roads and Free Roads*,[18] concluded that "the construction of direct toll highways cannot be relied upon as a sound solution of the problem of providing adequate facilities for ... necessary highway transportation of the United States or to solve any considerable part of this problem."[19]

[18] U.S. Congress, House, *Toll Roads and Free Roads. On the Feasibility of a System of Transcontinental Toll Roads and a Master Plan for Free Highway Development*, April 27, 1939, H.Doc. 272 (Washington: GPO, 1939), 170 p.

[19] Ibid., p. 4.

The 1940s to the Present: A legislative History of Federal Aid to Roads

The Roosevelt Administration was planning for the post-war period before official American involvement in World War II began. On April 14, 1941, President Franklin D. Roosevelt appointed the National Interregional Highway Committee to study the possibility of creating a unique system of highways with all necessary connections through and around cities that would meet the immediate requirements of the War Department and the future needs of increased post-war traffic. This system was to be administered by the newly named Public Roads Administration (formerly the BPR). The committee sent its report to Congress in January 1944.[20]

The Federal-Aid Highway Act of 1944 (P.L. 78-521, 58 Stat. 838) provided for the designation of a National System of Interstate Highways by federal and state officials, not to exceed 40,000 miles, unless additional mileage was necessary. No funds, however, were authorized or appropriated for the interstate highway system. Instead, the act appropriated $225 million for primary roads in each of the first three post-war years, $150 million for secondary and feeder road projects, and $125 million for urban federal-aid highway construction. The act established apportionment formulas for each state.

Although an Interstate Highway System had been proposed in 1913 by the National Highway Association,[21] the Federal-Aid Highway Act of 1952 (P.L. 82-413, 66 Stat. 158), which authorized $25 million for the Interstate system on a 50% federal-50% state matching basis, was the first law to allot funds specifically for Interstate construction. President Dwight D. Eisenhower was instrumental in implementing the Interstate Highway System, adding a specific national defense dimension to the concept, among other things.

The Federal-Aid Highway Act of 1954 (P.L. 83-350, 68 Stat. 70) authorized $175 million for the interstate system for FY1956, and $175 million for FY1957, both to be used in a 60-40 federal-state matching ratio.

In 1956, federal aid for highways increased dramatically with the passage of the Federal Aid Highway and Highway Revenue Acts of 1956 (P.L. 84-627, 70 Stat 374). The act authorized an additional $1 billion for FY1957, $1.7 billion for FY1958, and $2 billion for FY1959. The act created the Highway Trust Fund to ensure a source of financing for the National System of Interstate and Defense Highways. Since that time, tax revenues have been directed to the Highway Trust Fund derived from excise taxes on highway motor fuel and truck-related taxes on the sale of truck tires, trailers, and heavy vehicles. (For an overview of the trust fund activities, see **Table 1**.) Prior to the creation of the trust fund, federal financial assistance to highways came from the general fund of the U.S. Treasury. Although federal motor fuel and motor vehicle taxes existed prior to the creation of the trust fund, the receipts were directed to the general fund, and no formal relationship existed between federal funding for highways and these taxes. The 1956 act originally set the expiration date for the crediting of these funds to highway funding at the end

[20] U.S. Congress, House, *Interregional Highways*, H.Doc. 379 (Washington: GPO, 1944), 214 p.

[21] Richard F. Weingroff, "Good Roads Everywhere: Charles Henry Davis and the National Highways Association," found at U.S. Department of Transportation, Federal Highway Administration, *Highway History*, last modified April 7, 2011, http://www.fhwa.dot.gov/infrastructure/davis.cfm.

of FY1972; however, subsequent legislation has extended the imposition of the taxes and their transfer to the trust fund until September 30, 2012.[22]

The Federal-Aid Highway Act of 1959 (P.L. 86-342, 73 Stat 611) extended the National System of Interstate and Defense Highways to Alaska and Hawaii and stated the intent of Congress to reimburse every state for portions of highways absorbed into the Interstate System that were built after August 2, 1947, and contracted for completion by June 30, 1957.

The Federal-Aid Highway Act of 1962 (P.L. 87-866, 76 Stat. 1145) created the continuing, comprehensive, cooperative (3C) transportation planning process, which required states and local communities to develop long-range highway plans and programs in urban areas of more than 50,000 population and to properly coordinate the programs with the programs for other forms of transportation.

The Highway Safety Act of 1966 (P.L. 89-564, 80 Stat. 731) required that each state have a highway safety program, authorized by the Secretary of Transportation, designed to reduce deaths, injuries, and property damage. In 1966, Congress passed the Department of Transportation Act (P.L. 89-670, 80 Stat. 931), which changed the name of the BPR to the Federal Highway Administration (FHWA) and moved the FHWA into the newly created Department of Transportation.

The federal share of non-interstate highway projects was increased from 50% to 70% under the Federal-Aid Highway Act of 1970 (P.L. 91-605, 84 Stat. 1713), which also created the Special Bridge Replacement Program (SBRP). The act directed the Secretary to inventory bridges on the national highway system, "classify them according to their serviceability, safety, and essentiality for public use; and based on that classification, assign each a priority for replacement." The act further stated that states' requests for funding for bridge replacement would be funded from the priorities in the SBRP inventory. The federal share of bridge replacement would be up to 75%.

The Federal-Aid Highway Act of 1973 (P.L. 93-87, 87 Stat. 250) authorized funds to complete the Interstate Highway System, which it named the National System of Interstate and Defense Highways. This act also apportioned funds for the construction of bus lanes and highway traffic control devices, set a national policy for priority for other roads in the federal-aid highway system, and included a provision that allowed states to use a limited amount of highway funds for the construction of separate bicycle lanes, bicycle facilities, and pedestrian walkways. The act also permitted states to request funding for fixed-rail transit facilities in lieu of highway construction, with the amount to be equal to the amount that would have been furnished for the highway construction, but with funds to be drawn from the general fund rather than the Highway Trust Fund.

The 1976 Federal-Aid Highway Act (P.L. 94-280, 90 Stat. 425) established the "resurfacing, restoration, and rehabilitation" (3R) program which, for the first time, allowed federal funds to be used for resurfacing, restoration, and rehabilitation of existing highways. The Surface Transportation Assistance Act of 1978 (1978 STAA) (P.L. 95-599, 92 Stat. 2689) expanded and transformed the Special Bridge Replacement Program into the Highway Bridge Replacement Program to include repair as well as replacement, and it authorized appropriations for the

[22] For an overview of the history of the Interstate Highway System, see Earl Swift, *The Big Road* (New York: Houghton Mifflin Harcourt, 2011).

resurfacing of interstate highways that had been in use for more than five years. The eligibility requirements for the 3R program were revised in the Federal-Aid Highway Act of 1981 (P.L. 97-134, 95 Stat. 1701). This act also prohibited a state from receiving less than one-half of 1% of the total apportionment for the Interstate System.

The availability of advance construction funds to bridge projects under the highway bridge replacement and rehabilitation program was extended under the Surface Transportation Assistance Act of 1982 (1982 STAA) (P.L. 97-424, 96 Stat. 2097). This act also permitted states to transfer funds allocated for a particular urbanized area to another such area. Under this act, the apportionment of highway funds was reduced for states that did not require proof of payment of heavy vehicle use tax before such vehicle could be registered in the state. The act also established a Disadvantaged Business Enterprises (DBEs) program to guarantee 10% of monies spent on projects to businesses certified as being economically or socially disadvantaged. Several important features of this act dealt with the highway trust fund, including a tax increase (gasoline tax up 5 cents per gallon to 9 cents per gallon) and the mass transit account, which was established within the Highway Trust Fund (effective April 1, 1983).

The 1982 STAA also required that emergency relief funds be appropriated from the Highway Trust Fund and authorized appropriations for FY1983 through FY1986 out of the Highway Trust Fund for bridge replacement and rehabilitation and projects aimed at eliminating hazards.

The Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (P.L. 100-17, 101 Stat. 132) authorized appropriations out of the Highway Trust Fund for FY1988 through FY1993 for highway assistance projects. STURAA was the only highway bill to be vetoed by a President in the 20th century, being vetoed by President Ronald Reagan.[23] The act was passed over his veto (by 350-73 in the House, and by 67-33 in the Senate). The act increased the limit on emergency relief grants for each state from $30 million to $100 million and permitted them to use a certain percentage of their Interstate Highway transfer funds for highway planning and research.

On December 18, 1991, the Intermodal Surface Transportation and Equity Act of 1991 (ISTEA) (P.L. 102-240, 105 Stat. 2038) was signed into law. The act declared that the authorizations of appropriations and apportionments for the Interstate Highway System made by it were to be the last authorizations of appropriations and apportionments for the completion of the system. ISTEA also established the Surface Transportation Program (STP) to fund projects such as construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways and bridges, bike transportation, pedestrian walkways, and transportation enhancement activities anywhere on the federal-aid system. The STP program allowed spending on roads that many in the transportation community previously considered to be below the federal level of responsibility. These changes were magnified by a broadening of the states' abilities to transfer other highway program funds to STP.

[23] U.S. Congress, House. *Veto of H.R. 2, Message from the President* (Washington: GPO, 1987), 135 p.

Highways Under TEA-21

On June 9, 1998, the Transportation Equity Act for the 21st Century (TEA-21) (P.L. 105-178, 112 Stat. 107) was signed into law. In addition to reauthorizing revenue streams for the Highway Trust Fund until FY2005, TEA-21 also authorized highway program funding at a level of approximately $218 billion for FY1998 through FY2003. A minimum guarantee was enacted to guarantee each state at least 90.5% of its contributions to the highway trust fund.[24] TEA-21 also amended the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, 99 Stat. 1037) by creating two new categories within the discretionary budget: highway and transit. These so-called firewalls for highway and transit funds prevented appropriators from reducing these programs to increase spending on other programs. Of the $218 billion authorized by TEA-21, 81% ($177 billion) was for highways and highway safety programs. Most of the remaining 19% ($41 billion) was to be used for transit. Under TEA-21, each state was guaranteed at least 90.5% share returns on the funds the state's highway users paid into the trust fund. TEA-21 eliminated the payment of interest on the unexpended balance of the highway trust fund. In the past, these interest payments were very controversial, being viewed as simply a transfer of funds, because the interest was coming from the general fund of the U.S. Treasury. Not only did TEA-21 eliminate interest payments, but it also called for the transfer of the unexpended balance of the Highway Trust Fund to the general fund over the amount of $8 billion as of September 30, 1998.

One extremely important mechanism of TEA-21 was the Revenue Aligned Budget Authority (RABA).[25] RABA ensures that highway spending is directly proportional to highway revenues, so if highway revenues are projected to increase, so does highway spending and vice versa. RABA provided an additional $9 billion for highway spending between FY2000 and FY2002, and then in FY2003, after the RABA adjustment, the amount available for highway spending dropped 30%. In response, Congress included language in the Consolidated Appropriations Act, 2003 (P.L. 108-7, 117 Stat. 11), which raised highway spending for FY2003 to $31.8 billion.

Highways Under SAFETEA-LU

The Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59, 119 Stat. 1144) became law on August 10, 2005. The act modified and extended the funding guarantees created in TEA-21 through the life of the legislation (FY2005 through FY2009). Under SAFETEA, the RABA adjustment was altered to be based on the average of actual receipts from two years prior and receipt projections for the current year, allowing a negative adjustment only when the Highway Trust Fund is below $6 billion. RABA funds were only distributed in FY2007 ($842 million).

SAFETEA-LU also broadened somewhat the ability of states to use tolling on interstate highways for traffic congestion reduction and to finance construction. In addition, the legislation cleared up questions that had arisen about the use and operation of high-occupancy vehicle (HOV) lanes on federally funded highways.

[24] CRS Report R41869, *The Donor-Donee State Issue in Highway Finance*, by (name redacted).

[25] For a further discussion of the effects of RABA, see CRS Report RS21164, *Highway Finance: RABA's Double-edged Sword*, by (name redacted).

The Equity Bonus (EB) Program replaced the Minimum Guarantee (MG) Program found in TEA-21. The EB Program guarantees that states receive an annual percentage floor relative to the TEA-21 average annual apportionment.

Several pilot programs were also authorized in the legislation:

- the *Truck Parking Facilities Program* is intended to deal with the paucity of long-term parking for commercial vehicles along the National Highway System;
- *Highways for Life Program* provides funding to improve safety, decrease construction time, reduce congestion from construction, and improve the driving experience;
- the *Real-Time System Management Information Program* is intended to provide states the capability to monitor major highways in real time and use the information to mitigate or reduce congestion; and
- the *Future Strategic Highway Research Program* is to be run by the National Research Council of the National Academy of Sciences to research renewal of highway infrastructure with minimum delay of traffic, prevent or reduce the severity of highway crashes, reduce travel times, and integrate other concerns into enlarging highway capacity. The program received $205 million for FY2006 through FY2009.

Since October 1, 2009, federal aid to highways has been operating on a series of authorization extension acts.

Table 1. Status of the Highway Account of the Trust Fund
(thousands of dollars)

Fiscal Year	Expenditures	Closing Balance	Fiscal Year	Expenditures	Closing Balance
1957	$965,667	$516,335	1984	10,384,239	10,210,493
1958	1,511,603	1,048,534	1985	12,756,149	10,360,790
1959	2,612,576	523,657	1986	14,180,359	9,485,989
1960	2,940,251	119,221	1987	12,801,838	9,411,559
1961	2,619,170	299,063	1988	14,037,862	9,019,108
1962	2,783,864	470,661	1989	13,602,480	10,550,999
1963	3,016,701	746,926	1990	14,375,194	9,628,954
1964	3,645,013	641,431	1991	14,686,495	10,245,943
1965	4,026,117	284,858	1992	15,517,751	11,300,224
1966	3,965,431	243,535	1993	16,640,749	11,523,292
1967	3,973,426	725,196	1994	19,010,855	9,517,301
1968	4,171,110	981,572	1995	19,472,496	9,421,424
1969	4,150,575	1,520,827	1996	19,995,345	12,117,818
1970	4,378,253	2,611,611	1997	20,856,750	12,575,718
1971	4,685,348	3,651,696	1998	20,347,235	16,535,084
1972	4,690,217	4,489,531	1999	23,134,686	19,206,256
1973	4,811,036	5,590,688	2000	26,999,828	22,553,544
1974	4,599,013	7,666,652	2001	29,098,372	20,371,688
1975	4,843,089	9,597,390	2002	32,218,581	16,136,043
1976	6,520,603	9,076,650	2003	32,109,031	12,991,384
1977	6,147,175	10,163,646	2004	31,968,892	10,807,494
1978	6,057,737	11,672,503	2005	33,121,424	10,592,258
1979	7,154,141	12,564,460	2006	33,912,089	9,014,017
1980	9,212,311	10,999,460	2007	34,979,234	8,110,431
1981	9,173,762	9,259,443	2008	37,011,932	10,032,229
1982	8,035,206	9,046,417	2009	37,571,317	8,881,338
1983	8,837,637	9,061,618	2010	32,006,716	20,743,269

Source: Federal Highway Administration, *Highway Statistics 2010*.

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